

Through interconnection arrangements with NE PAT,²¹ all of NEP's customers are able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. Local Usage.

Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. Local usage is defined as an amount of minutes of use of exchange service, as prescribed by the FCC, provided without an additional charge to end users. The FCC has not yet quantified a minimum amount of local usage required to be included in a universal service offering, but has provided further guidance in its *ETC Order* on how to comply with the FCC's local usage requirement. The FCC now requires an ETC applicant to demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier (LEC) in the service areas for which it seeks designation.²² NEP will meet the local usage requirements by including a variety of local usage plans as part of a universal service offering. NEP's service includes local usage that allows customers to originate and terminate calls within its local calling area without incurring toll charges. The service allows for unlimited local calling for a flat-rated monthly charge. For a complete list of NEP's local calling plans included in its universal service offering, see attached Exhibit D. NEP's local usage plan is comparable to the ones offered by the incumbent LECs in the service areas for which it seeks designation. Further, NEP will comply with any and all minimum local usage requirements adopted by the FCC.

²¹ NEP is currently negotiating with three other telephone companies for interconnection agreements.

²² See *ETC Order* ¶ 32; see also 47 C.F.R. §54.202(a)(4).

3. Dual-Tone, Multi-Frequency (DTMF) Signaling, or its Functional Equivalent.

DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement.²³ The FCC has also recognized that wireless carriers use out-of-band signaling mechanisms, which is an appropriate alternative to DTMF signaling. NEP currently uses out-of-band digital signaling and in-band multi-frequency (MF) signaling that is functionally equivalent to DTMF signaling. NEP therefore meets the requirement to provide DTMF signaling or its functional equivalent.

4. Single-Party Service or its Functional Equivalent.

“Single-party service” means that only one party will be served by a subscriber loop or access line as opposed to a multi-party line.²⁴ The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user’s particular transmission. NEP meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

5. Access to Emergency Services.

Access to emergency services means the ability to reach a public safety answering point (PSAP) by dialing “911”. The FCC requires that a carrier provide access to 911 or Enhanced 911 (E911), which includes the capability of providing both automatic numbering information and automatic location information when the PSAP is capable of

²³ 47 C.F.R. § 54.101(a)(3).

²⁴ See *First Report and Order*, 12 FCC Rcd at 8810.

receiving such information and the service is requested from the carrier.²⁵ Currently NEP provides “Basic 911 Service” pursuant to Section 20.18(b). In accordance with the Commission’s rules and pursuant to a request from the Wayne County PSAP, NEP plans to begin providing Phase I E911 to Wayne County by July 31, 2007.²⁶ Unlike traditional wireline emergency services, E911 emergency services provide customers with public safety benefits *away* from their homes. NEP is preparing to implement Phase I in Wayne County and provides all of its customers with access to emergency service by dialing 911 throughout its territory. NEP’s E911 Phase I service will provide its universal service customers with the added benefit of location-based safety. By providing E911, NEP meets the Commission’s universal service requirement to provide access to emergency service.

6. Access to Operator Services.

Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.²⁷ NEP meets this requirement by providing all of its customers with access to operator services by dialing “611”.

7. Access to Interexchange Service.

A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. NEP currently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls.

²⁵ See 47 C.F.R. § 20.18(j).

²⁶ See 47 C.F.R. § 20.18.

²⁷ *First Report and Order* at 8817-18.

8. Access to Directory Assistance.

The ability to place a call to directory assistance is a required service offering.²⁸ NEP meets this requirement by providing all of its customers with access to directory assistance by dialing “411”.

9. Toll limitation for qualifying low-income consumers.

An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under Section 54.1 01(a)(9) of the FCC’s Rules.²⁹ In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.³⁰ NEP currently has no Lifeline customers because only carriers designated as an ETC can participate in Lifeline.³¹ Once designated as an ETC, NEP will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC’s requirement. NEP provides toll blocking services for international calls. Accordingly, NEP currently has the technology to provide toll blocking and will use this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

C. NEP Will Offer Supported Services Through Its Own Facilities

A carrier requesting designation must certify that it offers the supported services “either using its own facilities or a combination of its own facilities and resale of another

²⁸ *Id.* at 8821.

²⁹ See *Universal Service Fourth Order on Reconsideration and Report and Order*, 13 FCC Rcd 5318 (1997).

³⁰ *First Report and Order*, 12 FCC Rcd at 8821-22.

³¹ See 47 C.F.R. §§ 54.400-415.

carrier's services."³² NEP will provide the supported services using its existing network. NEP's network infrastructure includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing customers.

D. NEP Will Advertise Its Universal Service Offering

Pursuant to Section 54.201(d) of the FCC's Rules, NEP plans to advertise the availability and price of its universal service offering which comports with the core list of universal service requirements throughout the area in which it is designated as an ETC.³³ The Commission has stated that, "[b]ecause ETCs receive universal service support only to the extent that they serve customers, we believe that strong economic incentives exist, in addition to the statutory obligation, to advertise the universal service offerings in the requested service area..."³⁴ In order to fulfill the statutory obligation and because of strong economic incentives, NEP will advertise using, at a minimum, publication in three newspapers of general circulation including, the *Montrose Independent*, the *Susquehanna Transcript*, and *The Forest City News*, throughout the entire service areas of NE PAT, Hancock and Deposit in PA, and the partial service areas of Frontier, Verizon North and Verizon PA, or by other means as management may direct using good business practices and such guidance as the FCC has or may establish.

³² 47 C.F.R. § 54.201(d)(1).

³³ 47 C.F.R. § 54.201(d).

³⁴ *Farmers MO&O* at ¶ 11.

III. NEP Meets the Additional Criteria Adopted by the FCC in its Most Recent *ETC Order*

On March 17, 2005, the FCC adopted new rules regarding ETC designations. In its *ETC Order*,³⁵ the FCC revised the minimum requirements for a telecommunications carrier to be designated as an ETC and thus eligible to receive Federal universal service support. Consistent with the recommendations of the Federal-State Joint Board ("Joint Board") on Universal Service, the FCC adopted additional mandatory requirements for ETC designations pursuant to Section 214(e)(6) of the Act. Specifically, in considering whether a common carrier has satisfied its burden of proof necessary to obtain ETC designation, the FCC requires that the applicant: (1) demonstrate its commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) demonstrate its ability to remain functional in emergency situations; (3) demonstrate that it will satisfy consumer protection and service quality standards; (4) offer local usage plans comparable to those offered by the incumbent LEC in the areas for which it seeks designation; and (5) acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act. NEP meets all of the FCC's new mandatory requirements to be designated as an ETC.

A. Commitment to Provide Service Through its ETC Designated Area

i. Provide Service Upon Reasonable Request

The FCC has stated that an ETC applicant can demonstrate its commitment and ability to provide supported services throughout its designated service area by stating that

³⁵ See generally *ETC Order*.

it will provide services to all requesting customers within its designated service area.³⁶ Consistent with its *Virginia Cellular Order*³⁷ and *Highland Cellular Order*,³⁸ the FCC rules now require that an ETC applicant make specific commitments to provide service to requesting customers in the service areas for which it is designated as an ETC. Specifically, if the ETC's network covers the potential customer's premises, the ETC should provide service immediately. However, if a request for service comes from a potential customer within the ETC's designated service area but outside its existing network coverage, the ETC should provide service within a reasonable period of time if service can be provided at a reasonable cost by: (1) modifying or replacing the requesting customer's equipment; (2) deploying a roof-mounted antenna or other equipment; (3) adjusting the nearest cell tower; (4) adjusting network or customer facilities; (5) reselling services from another carrier's facilities to provide service; or (6) employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment. If an ETC determines that it cannot serve a customer using one or more of these methods, then the ETC must report the unfulfilled request to the Commission within 30 days after making such determination. NEP commits to providing service to all requesting customers within its designated service area and reporting its unfulfilled requests. NEP also commits to reporting annually to the FCC the number of requests for service within

³⁶ *ETC Order* ¶ 22.

³⁷ *In re Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket. 96-45, *Memorandum Opinion and Order*, FCC 03-338 (January 22, 2004) ("*Virginia Cellular Order*").

³⁸ *In re Federal-State Joint Board on Universal Service, Highland Cellular Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket. 96-45, *Memorandum Opinion and Order*, FCC 04-37 (April 12, 2004) ("*Highland Cellular Order*").

NEP's ETC designated service area that were unfulfilled during the past year and providing details regarding how it attempted to provide the customer with service.

ii. Five-Year Plan

NEP will further demonstrate its commitment and ability to provide the supported services throughout its designated service area by submitting a formal network improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support.³⁹ Specifically, NEP has submitted a five-year plan describing with specificity its proposed improvements or upgrades to its network on a wire center-by-wire center basis throughout its designated service area. The FCC has stated that the ETC applicant's five-year plan must state in detail how high-cost support will be used for service improvements that would not occur absent receipt of universal service support, including: (1) how signal quality, coverage, or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation; (2) the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; (3) the specific geographic areas where the improvements will be made; and (4) the estimated population that will be served as a result of the improvements.⁴⁰ NEP has provided this information for each wire center in each service area for which it expects to receive universal service support.⁴¹

³⁹ ETC Order ¶ 23.

⁴⁰ *Id.*

⁴¹ See attached Exhibits D, D1, D2, D3, D4, D5, D6 and D7.

CONFIDENTIAL INFORMATION – SUBJECT TO PROTECTIVE ORDER
REQUESTED ON BEHALF OF NEP

NEP's five-year plan includes [REDACTED]

[REDACTED]

[REDACTED] NEP's

customers will greatly benefit from the improvements to NEP's network. NEP intends to use its USF for which it is intended, to improve its network.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] NEP's five-year plan is attached as Exhibit D. Information regarding the amount of investment, the specific geographic areas where the improvements will be made, and the estimated population that will be served as a result of the improvements is included in Exhibit D.⁴² Additionally, NEP has provided maps of the specific geographic areas where the improvements will be made and the increased population that will be served as a result of the improvements.⁴³

NEP has provided to the best of its knowledge an accurate five-year build-out plan. [REDACTED]

[REDACTED]

[REDACTED] NEP will continue to respond to consumer demand by taking additional steps to ensure quality coverage and service. The information provided in NEP's five-year plan is highly confidential and

⁴² See Exhibit D.

⁴³ See attached Exhibits D1, D2, D3, D4, D5, D6 and D7.

competitively sensitive. Accordingly, NEP requests confidential treatment of NEP's five-year plan and other confidential and competitively sensitive information contained in this Petition.⁴⁴

B. Ability to Remain Functional in an Emergency

The FCC also requires an ETC applicant to demonstrate its ability to remain functional in emergency situations. Specifically, in order to be designated as an ETC, an applicant must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.⁴⁵ NEP is committed to remaining functional and providing service in emergency situations. For example, NEP has an unlimited amount of back-up power to provide continuous service in case of an emergency. Specifically, NEP provides at least 12 hours of back-up battery power at every site and NEP uses portable generators to provide continuous back-up power. Further, NEP can rely on its affiliate NE PAT to handle excess traffic in the case of an emergency. Pursuant to the FCC's rules, NEP will annually certify that it is able to function in an emergency situation and fulfill the annual outage reporting requirement.⁴⁶

C. Consumer Protection and Service Quality Requirements

The FCC also requires an ETC applicant to demonstrate its commitment to meeting consumer protection and service quality standards. Specifically, an ETC applicant must make a commitment to comply with CTIA's Consumer Code for Wireless

⁴⁴ 47 C.F.R. § 0.459.

⁴⁵ *Id.* ¶ 25.

⁴⁶ 47 C.F.R. §§ 54.209(a)(6), 54.209(a)(2).